



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Herff Jones Inc

COUNTRY: China

ASSESSMENT DATE: 09/08/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 168

Summary of Code Violations

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

FLA Code Element	Number of Violations
Compensation	3
Hours of Work	5
Employment Relationship	7
Health, Safety, and Environment	14
Harassment and Abuse	1
Nondiscrimination	2

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory uses temporary workers for handwork and the ironing process regularly. The number of temporary workers depends on the production workload ranging from one to six workers in the past 12 months. However, the factory does not collect or maintain proof of age documentation for temporary workers. The factory also does not sign an employment contract or an agreement with temporary workers. [ER.4, ER.7.1, ER.11.3, ER.11.5]

2. The factory does not provide a copy of the employment contract to workers. [ER.1]

Local Law or Code Requirement

The China Labor Law, Article 15; The Regulation on Banning Child Labor, Article 4; The China Labor Contract Law, Article 10 and Article 16. FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.4, ER.7, and ER.11)

Recommendations for Immediate Action

1. <!--[endif]-->Collect and maintain the age proof documentation for temporary workers. Sign employment contract or agreement with temporary workers.

2. <!--[endif]-->Provide each worker with a copy of the employment contract.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory pays temporary workers directly. However, temporary workers' regular wage and overtime compensation cannot be verified because the factory does not record working hours for temporary workers. In addition, the factory does not provide any insurances to temporary workers. [ER.11.2, C.5, C.7]
2. The factory does not provide social insurance to all eligible workers. There are total 32 workers working in the factory, including two workers over the retirement age. The factory only provided 20 out of 30 eligible workers (66.7%) with pension, unemployment, medical, work-related injury and maternity insurances in the latest payment month of July 2020. [ER.22]
3. The factory contributes to work-related injury and maternity insurances for all 20 workers based on their actual monthly wage, and contributes to pension, unemployment and medical insurances for 10 out of 20 workers based on their actual monthly wage, which is in line with legal requirement. However, the factory contributes to pension, unemployment and medical insurances for the remaining 10 workers based on local minimum contribution base of CNY 3,321 (USD 484) per month, while their actually monthly wages range from CNY 4,500 (USD 657) to 5,000 (USD 730). [C.10.1, ER.22]
4. The factory contributes to the Housing Provident Fund for one worker only. Both employer and individual contributions are paid by the worker. [ER.22.1]

Local Law or Code Requirement

The China Labor Law, Article 44, Article 48 and Article 72; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmarks C.5, C.7 and C.10; Employment Relationship Benchmarks ER.11 and ER.22)

Recommendations for Immediate Action

1. Pay temporary workers at least the legal minimum wage and sufficient overtime compensation as per legal requirement. Provide insurance benefits to temporary workers as well.
2. <!--[endif]-->Provide social insurance to all eligible workers.
3. <!--[endif]-->Contribute to social insurance based on worker's actual monthly wage.
4. <!--[endif]-->Provide all workers with the legally required Housing Provident Fund.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not include legally required items in the payroll including number of hours worked and date of payment. In addition, the factory does not provide a pay statement to workers. [C.13]

2. The factory pays the final payout on the regular payment date on the last day of following month, which is not in line with legal requirement of within five days upon contract termination. For instance, one worker's last working day was June 20, 2020. The factory paid the final payout on July 31, 2020, rather than within five days from June 20, 2020. [ER.18]
3. The factory does not provide holiday pay to all 19 piece-rate workers. and pays straight piece rate with no overtime compensation to all 19 piece-rate workers (about 59% of total workforce). Workers are provided with all legally required holidays. However, they are not paid for the statutory holidays when they have days off. [ER.22.1, C.7.2]
4. The factory pays maternity leave one time when the entitled workers resume work after maternity leave, rather than on a monthly basis as per the legal requirement. [ER.22.1, ND.8]
5. There are 21 production workers in the factory. However, the factory does not provide them with paid annual leave or paid sick leave. [HOW.11, HOW.16]

Local Law or Code Requirement

The Regulations of Zhejiang Province on Wage Payment, Article 11, Article 16 and Article 19; Special Rules on the Labor Protection of Female Employees, Article 8; The Regulations on Annual Leave for Employees, Article 2 and Article 3; The Medical Treatment Period Provision of Corporation Employee Illness or Non-Work-related Injury, Article 3. FLA Workplace Code (Compensation Benchmark C.13 and C.7; Employment Relationship Benchmarks ER.18 and ER.22; Hours of Work Benchmarks HOW.11 and HOW.16; Non-Discrimination Benchmark ND.8)

Recommendations for Immediate Action

1. <!--[endif]-->Include all legally required items in the payroll. Provide each worker with a pay statement for each pay period.
2. <!--[endif]-->Pay final payout within five days upon contract termination as per legal requirement.
3. <!--[endif]-->Provide holiday pay to piece-rate workers. Pay sufficient overtime compensation to piece-rate workers based on the legal requirement.
4. <!--[endif]-->Pay maternity leave on a monthly basis as per legal requirement.
5. <!--[endif]-->Provide paid annual leave and paid sick leave to all production workers as per legal requirement.

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory sets a production plan based on 54 to 60 hours per week. Factory management sets production targets and the production system at a level that workers need to work between 14 and 20 overtime hours per week. [ER.24]
2. Overtime hours exceed the legal limit of three overtime hours per day and thirty-six overtime hours per month. Time records for the period from August 2019 to August 2020 and worker interviews indicate that the daily overtime for about 50% of workers exceeded three hours in two to five workdays per month in April and May 2020. The monthly overtime for 80% of workers exceeded 36 hours in all

reviewed months except February 2020, with a maximum of 100 overtime hours in December 2019. [HOW.1.1, HOW.8.1]

3. Total weekly working hours regularly exceed 60 hours. Time records for the period from August 2019 to August 2020 and worker interviews indicate that about 80% of workers worked between 62 and 71 hours per week in one to three weeks per month in all reviewed months except for February 2020, with a maximum of 71 hours per week in June 2020. [HOW.1.3, HOW.8.3]

4. Workers are not always provided with one day off for every seven-day work period. Time records for the period from August 2019 to August 2020 and worker interview indicate that about 50% of workers worked more than six consecutive days per month in all reviewed months except February 2020, with an average of 13 consecutive days in a month and a maximum of 20 consecutive days from December 2 to 21, 2019. [HOW.2]

5. The factory does not record working hours for temporary workers. As a result, temporary workers' regular working hours and overtime hours cannot be verified. [ER.23.3, HOW.1.1]

Local Law or Code Requirement

The China Labor Law, Article 38 and Article 41. FLA Workplace Code (Hours of Work Benchmarks HOW.1, HOW.2, and HOW.8; Employment Relationship Benchmarks ER.23 and ER.24)

Recommendations for Immediate Action

1. Set production plans based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
2. Ensure overtime hours do not exceed the legal limit of three hours per day and thirty-six hours per month.
3. Control total working hours so that they do not exceed 60 hours in a week.
4. Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day working period.
5. Adopt a reliable and effective time recording system to record working hours for temporary workers. Ensure temporary workers' regular working hours and overtime hours are in line with legal requirement.
6. Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:
 - 1) Implement FLA Principles of Fair Labor and Responsible Sourcing and
 - 2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
 - a. How to provide better order forecasts to the factories;
 - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;

- c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
- d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);
- e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;
- f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. The factory uses monetary fines as a means to maintain labor discipline. The internal regulation defines that workers will be fined between CNY 10 (USD 1.50) to CNY 50 (USD 7.30) per warning letter and between CNY 50 (USD 7.3) and CNY 100 (USD 14.6) per misconduct record. The factory rules also state that workers will be fined for late arrival or early departure from work. Payroll records indicate that one worker was fined CNY 100 (USD 14.60) because they were 10 minutes late for work in December 2019. [H/A.2]

Local Law or Code Requirement

FLA Workplace Code (Harassment or Abuse Benchmark H/A.2)

Recommendations for Immediate Action

1. <!--[endif]-->Maintain labor discipline with progressive discipline system rather than imposing monetary penalties.

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. [FOA.2, FOA.10]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.10)

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not install emergency fire alarms in the workshop and warehouse. [HSE.5.1]
2. The factory installs two out of nine fire extinguishers at around 2.5 meters from the top of the fire extinguishers to the floor in the workshop, which is not in line with legal requirement of less than 1.5 meters. In addition, the factory places another two fire extinguishers directly on the floor, instead of mounted on the wall or placed in a fire extinguisher box. [HSE.6.1]
3. The emergency exits in the workshop do not have exit signs. [HSE.5.1]
4. The factory has never conducted a fire evacuation drill. [HSE.5.3]
5. The factory has a workshop and a warehouse on the 1st floor of a 5-story building. Other companies occupy the other floors. The factory has not coordinated the fire safety concerns/risks or conducted joint fire evacuation drill with the other companies. [HSE.5.1]

Local Law or Code Requirement

The Code for Design of Automatic Fire Alarm System (GB50116-2013), Article 6.5.1 and Article 10.1.1; The Code of Design on Building Fire Protection and Prevention (GB50016-2014), Article 10.3.5; The Code for Design of Extinguisher Distribution in Buildings (GB 50140-2005), Article 5.1.3; Fire Prevention Regulation for Government Offices, Organizations and Enterprises, Article 40. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5 and HSE.6)

Recommendations for Immediate Action

1. <!--[endif]-->Install a centralized fire alarm system with backup battery in the workshop and warehouse to notify workers of emergencies.
2. <!--[endif]-->Ensure fire extinguishers are mounted on the wall or placed in the fire extinguisher box as per the legal requirement. The distance from the top of the fire extinguisher to the floor should be less than 1.5 meters.
3. <!--[endif]-->Install exit signs on both emergency exits in the workshop.
4. <!--[endif]-->Conduct a fire evacuation drill at least once per year.
5. <!--[endif]-->Coordinate the fire safety concerns/risks and conduct joint fire evacuation drill with other companies sharing the same production building.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not install belt guards on the wrinkling machine and on one out of 20 sewing machines. In addition, the factory does not install an eye protective shield on the high-speed sewing machine. [HSE.14.1]
2. The factory has never conducted an inspection for the safety valve and pressure gauge on the electrical boiler. [HSE.14.1]
3. The factory has never conducted an occupational hazards test on dust, lighting, or noise at the workplace. [HSE.13]
4. The factory does not have a legally required inspection report for a loft used as an office with an area of about 400 square meters which was constructed after 2012. They also do not have a legally required Fire Safety Inspection Certificate or Fire Filing Certificate. [HSE.4]
5. The factory mainly produces garments (graduation gowns), which are classified at the general risk level of occupational disease hazards for production. However, the factory has not conducted the "Three Simultaneities Assessment" for Occupational Health of Construction Projects since the factory was founded in 2016. The Three Simultaneities Assessment refers to the pre-assessment of occupational disease hazards, assessment of the effects of occupational disease hazards and assessment of the current conditions of occupational disease hazards and is legally required [HSE.4]

Local Law or Code Requirement

The Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6; Special Appliance Quality Safety Monitoring Regulation, Article 28; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20; The Construction Law of the People's Republic of China, Article 61; Fire Prevention Law of the People's Republic of China, Article 13; Law of the People's Republic of China on the Prevention and Control of Occupational Diseases, Article 18. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.4, HSE.13 and HSE.14)

Recommendations for Immediate Action

1. <!--[endif]-->Install belt guards on the wrinkling machine and sewing machines. Install eye protective shield on the high-speed sewing machine.
2. <!--[endif]-->Conduct annual inspection for the safety valve and pressure gauge on the electrical boiler by a qualified company and obtain inspection report.
3. <!--[endif]-->Conduct occupational hazards testing on dust, lighting and noise at the workplace by a qualified company and obtain testing report.
4. <!--[endif]-->Obtain the report on inspection and acceptance of completed construction project and Fire Safety Inspection Certificate or Fire Filing Certificate for the loft used as office area.
5. <!--[endif]-->Conduct Current Occupational Hazards Assessment by a qualified company and obtain assessment report.